

PATENT  
 Attorney Docket No. 102.0001-13000  
 Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Confirmation No.: 6323
Gary Karlin Michelson	)	
Serial No.: 10/685,776	)	Group Art Unit: 3764
Filed: October 15, 2003	)	
For: METHOD FOR FORMING THROUGH	)	
A GUARD AN IMPLANTATION SPACE)	)	
IN THE HUMAN SPINE	)	

Mail Stop AMENDMENT  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER**

Petitioner ("assignee") SDGI Holdings, Inc., duly organized under the laws of the State of Tennessee, and having its principal place of business at 1800 Pyramid Place, Memphis, Tennessee 38132 represents that it is the only assignee of the entire right, title and interest in and to the above-identified application, Serial No. 10/685,776, filed October 15, 2003 for METHOD FOR FORMING THROUGH A GUARD AN IMPLANTATION SPACE IN THE HUMAN SPINE in the name of Gary Karlin Michelson as indicated by assignments duly recorded in the United States Patent and Trademark Office at Reel 015328, Frame 0801; and Reel 016195, Frame 0282; and is the only assignee of the entire right, title and interest in and to:

application Serial No. 07/968,240, filed October 29, 1992 (now U.S. Patent No. 5,741,253), for METHOD FOR INSERTING SPINAL IMPLANTS in the name of Gary Karlin Michelson as indicated by assignments duly recorded in the United States Patent and Trademark Office at Reel 016182, Frame 0089; Reel 008626, Frame 0721; Reel 009146, Frame 0234; and Reel 016172, Frame 0436; and

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application Serial No. 09/062,749, filed April 20, 1998 (now U.S. Patent No. 6,224,595), for METHOD FOR INSERTING A SPINAL IMPLANT in the name of Gary Karlin Michelson as indicated by assignments duly recorded in the United States Patent and Trademark Office at Reel 016182, Frame 0089; Reel 013936, Frame 0548; and Reel 016172, Frame 0436.

Assignee SDGI Holdings, Inc. further represents through its representative that to the best of assignee's knowledge and belief, title to the above-identified application and the United States Patent Nos. 5,741,253 and 6,224,595 are in assignee, which is submitting this Terminal Disclaimer.

To obviate a double patenting rejection, SDGI Holdings, Inc. hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on the above-identified application, Serial No. 10/685,776, which would extend beyond the expiration date of Patent Nos. 5,741,253 and 6,224,595 and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent Nos. 5,741,253 and 6,224,595, this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on application Serial No. 10/685,776 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of Patent Nos. 5,741,253 and 6,224,595, as presently shortened by any terminal disclaimer, in the event that one or both of Patent Nos. 5,741,253 and 6,224,595: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is to be charged to Deposit Account No. 50-1068.

If a check for the required fee is not filed concurrently herewith or if there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 50-1068. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee SDGI Holdings, Inc.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: June 30, 2005

By:   
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